

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Broan NuTone LLC,
Plaintiff,

v.

Travelers Property Casualty Corp., a
Connecticut corporation, and The Travelers
Indemnity Company of Illinois, an Illinois
corporation,
Defendants.

Case No.: 02-CV-4627

FILED OCT 24 2002

**PLAINTIFF BROAN NUTONE LLC'S SUPPLEMENTAL BRIEF AND NOTICE OF
WISCONSIN ORDER GRANTING BROAN'S MOTION TO SEVER AND TRANSFER**

COMES NOW, Plaintiff Broan NuTone, LLC, by and through its counsel, Jack E. Hall, Esq., and Eckert Seamans Cherin & Mellott, LLC., and files the within Plaintiff Broan Nutone LLC's Supplemental Brief And Notice Of Wisconsin Order Granting Broan's Motion to Sever and Transfer:

Presently pending before this Honorable Court is Travelers Property Casualty Corporation's motion to dismiss or alternatively transfer, which seeks to have the instant case dismissed or, alternatively, transferred to the United States District Court for the Eastern District of Wisconsin.

As this Court has been apprised by previous filings in connection with Travelers' pending Motion, Travelers has commenced an action in the United States District Court for the Eastern District of Wisconsin in which Travelers attempts to foist upon that Court an action involving a number of fires from as many locations, none of which have any substantial connection with that jurisdiction. Broan has filed in the Wisconsin action a motion to dismiss or, alternatively, sever and transfer that action to the various locales in which the causes of action arose.

By Order issued and entered October 21, 2002, the Honorable Rudolph T. Randa, Chief Judge of the United States District Court for the Eastern District of Wisconsin, GRANTED

Broan's Motion to Sever and Transfer. A true and correct copy of said order is attached hereto as "Exhibit A." Said Order indicates that "[a] written Decision and Order shall be issued forthwith." Upon receipt of same, said opinion and order will be filed with this Court.

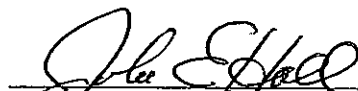
At this point, aside from the procedural paradox that would be created were this Honorable Court to rule differently, it appears that federal district courts are bound by decisions of other federal district courts on issues of convenient fora. See Pastewka v. Texaco, Inc., 565 F.2d 851 (3rd Cir. 1977); Alma Torreblanca de Aguilar v. Boeing Co., 806 F.Supp. 139 (E.D.Tex. 1992). ("[I]n Pastewka[], the Third Circuit held that a plaintiff was precluded from relitigating the issue of *forum non conveniens*.")

To avoid the preclusive effect of a prior *forum non conveniens* determination, "the plaintiff in the new forum must do more than ask for a rebalancing of *forum non conveniens* considerations underlying the previous consideration.

Alma Torreblanca de Aguilar, 806 F.Supp. at 141.

For the foregoing reasons, Plaintiff Broan NuTone, LLC, respectfully requests that Travelers' pending motion be denied, and that this matter be allowed to proceed.

Respectfully submitted,


John E. Hall, Esquire
Pa. I.D. No. 11095

Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
(412) 566-6000

Attorney for Plaintiff Broan NuTone LLC

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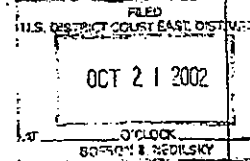
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HON RUDOLPH T RANDA

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN



TRAVELERS PROPERTY
CASUALTY CORPORATION,

Plaintiff,

-vs-

Case No. 02-CV-765

BROAN-NUTONE, L.L.C.,

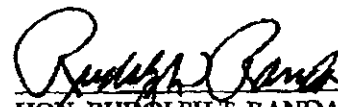
Defendant.

ORDER

IT IS HEREBY ORDERED THAT Broan-Nutone, L.L.C.'s ("Broan")
motions to sever and to transfer pursuant to 28 U.S.C. § 1404(a) are GRANTED. A
written Decision and Order shall be issued forthwith.

Dated at Milwaukee, Wisconsin, this 21st day of October, 2002.

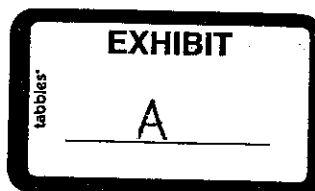
SO ORDERED,


HON. RUDOLPH T. RANDA
Chief Judge

and Sealed
Copy mailed to attorneys for
parties by the Court pursuant
to Rule 77 (d) Federal Rules of
Civil Procedure.

AO 72A
10-1-01

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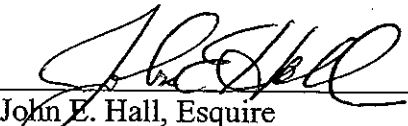


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **Plaintiff Broan Nutone LLC's Supplemental Brief And Notice Of Wisconsin Order Granting Broan's Motion to Sever and Transfer** has been served upon all parties, or their counsel of record, this 23rd day of October, 2002 as follows:

Patrick J. Moran, Esq.
Francis R. Gartner & Associates
960-B Harvest Drive, Suite 210
Blue Bell, PA 19422-1969

- ☒ [X] Via Prepaid First Class United States Mail
- ☐ [] Via Overnight Courier Delivery
- ☐ [] Via Facsimile Transmission:
- ☐ [] Via Hand Delivery
- ☐ [] Via Email:



John E. Hall, Esquire